

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

INNER E. CAMPOS-CARRANZA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 4:12-cv-94
)	
FEDERAL HOME LOAN)	
MORTGAGE CORPORATION, et al.)	
)	
Defendants.)	

**SB&A AND PFC’S MOTION TO DISMISS THE COMPLAINT PURSUANT TO
F.R.C.P. RULE 12(B)(6)**

Defendants Shapiro, Brown & Alt, LLP (“SBA”) and Professional Foreclosure Corporation of Virginia (“PFC”), by counsel, in response to the Complaint filed by Plaintiff Inner E. Campos-Carranza hereby move pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss the Complaint for failure to state a claim for which relief may be granted as a matter of law, for the reasons stated in the contemporaneously filed memorandum, and including:

1. Plaintiff’s claim that GMAC Mortgage, LLC (“GMAC”) was not entitled to appoint trustees and foreclose because it is a loan servicer, and not the owner of the loan, is without merit, and fails to state a claim. Both the Commercial Code and Virginia Real Property Law recognize the right of a holder to appoint trustees and foreclose, as well as a loan servicer, and record beneficiary. GMAC is all three.
2. GMAC is the holder, loan servicer, and record beneficiary of the loan, and therefore constitutes the creditor to whom the debt is owed.
3. Plaintiff’s claim that SB&A misrepresented the amount owed is not supported by any well-pled facts. SB&A is entitled to rely on its client and the referenced documents

demonstrate the same.

4. Plaintiff was sent all notices necessary to properly accelerate her loan pursuant to the Note, Deed of Trust, and Virginia law.

5. Plaintiff fails to establish the elements of a breach of fiduciary claim. Any duty owed does not embrace those demanded by Plaintiff. If PFC were not a trustee, then it would owe no duty.

6. Plaintiff has not alleged a sufficient claim for declaratory judgment – there is no actual antagonistic assertion and denial of right, and it is untimely.

WHEREFORE, Shapiro, Brown & Alt, LLP and Professional Foreclosure Corporation of Virginia respectfully request that the Complaint be dismissed, that it be awarded its fees in the action, and for such other relief as may be just and proper.

Dated: July 11, 2012

Respectfully Submitted,
**SHAPIRO, BROWN & ALT, LLP and
PROFESSIONAL FORECLOSURE
CORPORATION OF VIRGINIA**
By Counsel

By: /s/ Bizhan Beiramee
Bizhan Beiramee, Esq. (VSB # 50918)
Matthew Cohen, Esq. (VSB # 72097)
Beiramee & Cohen, P.C.
6663 B Old Dominion Drive
Third Floor
McLean, Virginia 22101
Phone: (703) 483-9600
Fax: (703) 483-9599
Email: bbeiramee@beiramee.com

John C. Lynch (VSB No. 39267)
Megan E. Burns (VSB No. 35883)
Ethan G. Ostroff (VSB No. 71610)
Counsel for Defendants
TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000

Virginia Beach, Virginia 23462

Telephone: (757) 687-7765

Facsimile: (757) 687-1504

E-mail: john.lynch@troutmansanders.com

Email: megan.burns@troutmansanders.com

Email: ethan.ostroff@troutmansanders.com

*Counsel for Shapiro, Brown & Alt, LLP and
Professional Foreclosure Corporation of Virginia*

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July, 2012, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

Dale Wood Pittman, Esq.
The Law Office of Dale W. Pittman, P.C.
112-A W Tabb St
Petersburg, VA 23803-3212
(804) 861-6000
Fax: (804) 861-3368
Email: dale@pittmanlawoffice.com

Kristi Cahoon Kelly, Esq.
Anthony J. Guzzo, Esq.
Surovell Isaacs Petersen & Levy PLC
4010 University Drive, Suite 200
Fairfax, VA 22030
703-277-9774
Fax: 703-591-9285
Email: kkelly@sipfirm.com

Leonard Anthony Bennett, Esq.
Susan Mary Rotkis, Esq.
Consumer Litigation Associates
763 J Clyde Morris Boulevard, Suite 1A
Newport News, VA 23601
757-930-3660
Fax: 757-930-3662
Email: lenbennett@cox.net
Email: srotkis@clalegal.com

Matthew James Erausquin, , Esq.
Consumer Litigation Associates PC (Alex)
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
703-273-6080
Fax: 888-892-3512
Email: matt@clalegal.com

By: /s/ Bizhan Beiramee
Bizhan Beiramee